

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 175 of 1997

in

SPECIAL CIVIL APPLICATION No. 6033 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER
and
MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

RAHEMTULLA HANIFBHAI RAJPURA

Appearance:

M/S THAKKAR ASSOC. for Petitioners
MR JV JAPPEE for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MISS JUSTICE R.M.DOSHIT
Date of decision: 25/09/97

ORAL JUDGEMENT {Per : Thakkar, J.}

This appeal is filed against a judgment and order passed by the learned Single Judge in Special Civil Application No. 6033 of 1996 on February 3, 1997.

The respondent no.1 was the original petitioner. He filed the above petition for a writ of mandamus directing appellant-authorities to give appointment on compassionate ground to him, in accordance with rules and regulations of the Corporation.

It was the case of petitioner that his father was working with the Corporation. He was declared medically unfit by a Civil Surgeon on April 9, 1985. His services, therefore, came to be terminated on May 4, 1985. Hence, an application was made by him on May 20, 1985 to give appointment on compassionate ground to his elder son Mustafa Hanif Rajpura. It was the case of the Corporation that in accordance with rules and regulations, the application was to be made by the applicant and not by the employee. Still however, the said application was considered and it was granted and Mustafa Hanif Rajpura was ordered to be appointed. Before appointment, medical examination was necessary, Mustafa, therefore, was called for medical test but he did not appear, and hence, it was treated that he was not interested in employment. Again, an application was made on April 10, 1990 by the father of petitioner that since his elder son Mustafa was not appointed, his other son i.e., petitioner may be appointed to the said post. That application was rejected.

When the matter was heard, the learned Single Judge was of the view that since the object to give appointment on compassionate ground was to see that the family does not suffer and as in the instant case, the employee was found to be medically unfit and as his elder son did not accept the appointment, the action of not appointing the petition could not be said to be reasonable. In view of the said finding, the learned Single Judge allowed the petitioner and directed the Corporation to consider the application of the petitioner in accordance with law and to pass appropriate order thereon. It is that order which is challenged in the present Letters Patent Appeal.

We have heard learned counsel for the parties. In the facts and circumstances of the case, it cannot be said that any error of law has been committed by the learned Single Judge. It is not the case where elder son was appointed and thereafter he left service.

Considering the underlying object of making appointments on compassionate ground, in our opinion, it cannot be said that the view taken by the learned Single Judge is improper, unjust or unreasonable.

In the facts and circumstances of the case, in our opinion, the decision on which reliance is placed on behalf of the learned counsel for the Corporation in Jagdish Prasad v. State of Bihar & Another., 1991 (1) SCC 301 does not help the Corporation. We do not see any reason to interfere with the order passed by the learned Single Judge, this Letters Patent Appeal deserves to be dismissed, and is accordingly dismissed. Notice discharged with no order as to costs.

The Appellant-Authorities will now process the application and take appropriate decision thereon on or before December 31, 1997.

Prakash*